IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'OURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

OP.No. 16 of 1999(S)

ORDER IN RA 142/1997 IN WTA 295/1991 OF THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH

PETITIONER:

THE COMMISSIONER OF WEALTHTAX,
TRIVANDRUM.

BY STANDING COUNSEL, GOVT. OF INDIA (TAXES)
SRI.P.K.RAVINDRANATHA MENON (SR.)
SRI.GEORGE K. GEORGE

RESPONDENT:

LATE JANE V.FERNS, REPRESENTED BY
SHRI VINCENT P.FERNS, C/O.M/S.OCEANIC PRODUCTS
EXPORTING CO., SAKTHIKULANGARA, QUILON.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

O.P.No.16 of 1999-S

Dated, this the 27th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

This is a petition filed by the Revenue under Section 27(3) of the Wealth Tax Act, 1957 ('Act' for short).

(2) The Revenue being aggrieved by the order passed by the Commissioner of Income Tax (Appeals), Thiruvananthapuram, had filed second appeal before the Income Tax Appellate Tribunal, Cochin Bench, Cochin in W.T.A.No.295 of 1991 for the assessment year 1979-80.

(3) The Tribunal has rejected the Revenue's appeal by its order dated 14th October, 1996.

(4) The Revenue had filed a petition under Section 27(1) of the Act, inter alia, requesting the Tribunal to refer the following question of law for our consideration and decision:

> "Whether on the facts and in the circumstances of the case the Tribunal is right in holding that the assessee's share of right in the property called "Ferns Apartment" has to be valued applying Rule 1BB of W.T.Rules?"

(5) The Tribunal has rejected the petition filed by the Revenue. Therefore, the Revenue is before us in this petition filed under Section 27(3) of the Act requesting us to direct the Tribunal to refer the question of law raised by it for our consideration and decision.

(6) In our view, the question of law raised by the Revenue in this petition filed under Section 27(3) of the Act is no more res integra, in view of the decision of this Court in ***Commissioner of Wealth Tax, Thiruvananthapuram*** v. ***Crispin Vincent*** (I.T.R.Nos.23 and 24 of 1999

disposed of on 13th December, 2004).

(7) Since the issue raised in this petition is already covered against the Revenue, the request of the Revenue to consider and decide the case after securing the statement of the case and the question of law framed by the Revenue from the Tribunal, need not be considered. In that view of the matter, the petition requires to be rejected and it is rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns